Secrt. II-27--45,008--18-12-30.

Law General (1987) Department.

Ms SER[redacted].

G.O. No. 3091

DATED 18-8-87.

[Despatch Abstract.]

Legal assistance:-

Certain forest subordinates of Pochampad range - C.C.No.43 of 1986 - Court of the Sub-Divisional Magistrate - Kollegal - Pleader's fee - Sanctioned.

C.F. 30.

Revenue **DEPARTMENT.**

Received 7-AUG 1931 19 *Registered* 1-S3673B 7/8/31 19

Subject.

Legal assistance - Case against forest subordinates- cost to be met from Government funds.

Enclosures.
No. 2
Spare copies

Ref. No. 15171/30-D-3

Station Coimbatore, *Dated the* 4th August 1931.

From (Name) S.H.Slater,Esq.,C.M.G.,C.I.E.,I.C.S.,
(Designation) District Magistrate.

To The Secretary to the Government of Madras,
Law (General) Department.
M a d r a s.

Sir,

I enclose copies of judgments in C.C.43/30 and S.C.5/31 on the file of the Sub Divisional Magistrate, Kollegal. The accused in S.C.5/31 complained against Konayya Pillai, Forester Anganna Naicken and Imam Sahib Forest guards of Poonachi range for offences under sections 161, 211 and 392 I.P.C. The Sub Divisional Magistrate, Kollegal, tried the case as C.C.43/30 and discharged the accused under section 253 Cr.P.C as no prima facie case was made out against them. Compensation under section 250 was not awarded.

pp 9-10 infra

2. The Forest subordinates applied for and were granted legal assistance. The pleader's fees come to Rs.25/-

The pleader appeared in the Court twice, once on 23-1-31 for cross-examining 5 P.Ws and the second time on 31-1-31 for arguments. In view of the fact that the case against the accused was not proved, I recommend that the pleader's fees may be met entirely from Government funds.

for Asst. Magistrate.
6-8-31

A.P.L/6-8

Encls: Two.

6 AUG 1931

Cr. J. Mis.-124.—26,347—27-7-27.

3/ 45

In the Court of the Sub Divisional I Class Magistrate, Kollegal.

JUDGMENT IN CALENDAR CASE No. 43/30 ~~102~~ ON THE FILE OF THE Sub Dvl. I Cl. MAGISTRATE OF Kollegal.

Present:-

M.R.Ry., D.B.Narayana Rao Pantulu Garu, B.A., B.L.,
Sub Divisional Magistrate, Kollegal.

Dated this 31st. day of January, 31.

Complainant ... ... Madayagowndan, Geratti of Ponnachi village.

Accused ... ... 1. R.KonaAyya Pillai.
2. Anganna Naicken.
3. Imam Sahib.

Offence ... ... Being or expecting to be a public servant and taking a gratification other than legal remuneration in respect of an official Act. Sec.161 I.P.C. False charge of offence made with intent to injure Sec.211 I.P.C. Attempt to commit the above offence - Sec.511 I.P.C. and robbery under sec.392 I.P.C.

Finding ... ... No case made out

Sentence ... ... Acquitted under sec.253(1) Cr.P.C

Serial number.	Description of the Accused						Date of						Explanation of delay.
	Name.	Father's Name.	Caste or race.	Occupation.	Residence.	Age.	Occurrence.	Complaint.	Apprehension.	Release on bail.	Commencement of trial.	Close of trial.	
1	2						3						4
(1)	Konayyapillai	Rangaswami Pillai	Vellala	Forester	Ponneri	39	27/10/30	5-11-30	5-11-30	—	25-11-30	31-1-31	
(2)	Anganna naikan	Chenneppa naikan	Naidu	Forest Guard	— do —	29							
(3)	Imam Sahib	Bannigai Sahib	Mahammadan	. Do	Golinatam	28							

47 5

C.C.43/30.

Madaigownda son of Ankai gownda, Geratti hamlet of — Ponnachi filed a complaint on 5-11-30 before my predecessor, that the Forester Konai Pillai, Guard Angappa, Gobinathan Guard one Sahib whose name is not known came to his house, seized timber, in his house and carried them away to the Forest Bungalow — meaning thereby the Forester's quarters. In his sworn deposition, he says the village munsif was sent for by the Forester and in spite of his urging that the wood was not illicit one, it was taken into the forest bungalow, where the Forester A-1 demand Rs.200/- on pain of filing a charge against him for having — brought timber from the forest. He swears he has passes for the wood brought. He alsb alleges that the forest men have not given any receipt for the timber so taken. My predecessor took the case on file under section 161, 511, 211 and 511 against the Forester and sections 211, 511 and 392 I.P.C. against the two Forest Guards.

Complainant examined five witnesses including himself. The complainant says that the accused came to his house on a Monday about a little less than three months ago when he was getting a door frame made ready by two carpenters for the main entrance of his house and removed nine logs from his house on that day to the forest bungalow by the two guards assisted by one of his carpenters in spite of his protest that it was all timber removed from patta lands. He says that when he returned home after giving the complaint, he came to know that on Tuesday, the next day of the occurrence some 14 more logs were taken away from his house by the accused during his absence.- As regards the demand of Rs.200/- he says that it was A-2 who told him that A-1 wanted Rs.200/- and that on his pleading inability to pay A-1 had come out of the bungalow and learning from A-2 that complainant pleaded inability, the Forester had said that he would file a case against him and see his way to put him into jail, and dismiss him. He says all the conversation took place

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in the presence of his witness Kappalappa [illegible]. In cross — examination this witness said that none of the accused — A-2 had previously asked him for any such illegal gratification. P.Ws. 2 and 3 are two carpenters father and son, who were called by P.W.1. They only speak about the arrival of the forest [illegible] and the removal of the logs, but when P.W.1 was present on — Monday and also on Tuesday in the absence of the complainant they were at work as usual. Ex.A.1 is the complaint — referred to by P.W.1. He no doubt corroborates the story of P.W.1 so far as the demand of Rs.200/- is concerned. In cross examination, he denies the relationship with the complainant. Certain discrepancies are also noticed in his evidence as compared with that of P.W.1, who says that this witness had asked him that the timber was being removed by the forest and also that he would help him was, whereas Kappalappa asserts he did not tell P.W.1. There is also a different version given by this witness as regards A-1 is said to have asked the complainant [illegible] to pay Rs.200/- while P.W.1 says that he threatened him that a forest case as having arrested the driver, this witness puts into the mouth of A-1 that he should [illegible] forest and make a case. [illegible] the receipts in his handwriting Exs. A and A1/Ex. 1 being timber sold in revenue auction [illegible] timber of certain patta lands.

The accused in their statements deny the allegations — the complainant and A-1 and A-2 in particular say that [illegible] counter case by the complainant against a forest case [illegible] them and pending trial.

The evidence for the prosecution as regards the [illegible] of timber cannot constitute an offence under S79 I.F.C. as the accused only acted [illegible] the interest of their employers pending their orders and cannot be said to have forest [illegible] report. This is supported by the [illegible] report -

Please see page 848 of Ratanlal's Law of Crimes 11 th Edition. Therefore much less can it amount to an offence under 392 I.P.C. As regards the question of bribe and attempt to obtain it, it is in evidence that A-1 had returned from leave only on the day of the offence and it is clear that the official act is not one really connected with the official function of the accused as he is not authorised to seize really old timber according to the prosecution version. The prosecution story cannot be relied upon in view of the corroboration only by the interested witness, a relation of the complainant, with the discrepancies pointed out above. It looks also highly improbable that on the very day of the arrival of A-1 against whom no such previous conduct or reputation was advanced has rushed forth to make an attempt to obtain a bribe. There is no question of a false case brought about by the accused in view of Ex.A and it is not possible to say anything on this aspect from the complaint till the case put up by the forest people is disposed of as false and the court gives a direction proceed under 211. It is thus clear that all the sections under which the original charge was taken up on file are not appropriate. If the prosecution evidence has not been interested and discrepant probably one under 165 I.P.C. might stand. As the evidence now stands, I consider that no prima facie case has been made out against the accused which if unrebutted would warrant a conviction I therefore discharge the accused under section 253(1) Cr.P.C.

Dictated by me and pronounced in open court this 31st day of January, 31.

(Sd) D.B.Narayana Rao,
31-1-31
Sub Divisional I Class Magistrate.

(True copy)

Narayana Rao 9 7 31

Sub Divisional I Class Magistrate.

6.7.31 2.2.31

Witnesses examined

Prosecution:-

1. Kade Owman
2. Cheluvachari
3. [illegible]ji.
4. Kappalan.
5. Karia Owma.

Extract from the register of Summary trials in the Court of the Sub Divisional Magistrate, Kollegal

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Number of summary trial	5/31.
Date of commission of offence.	8-11-30.
Date of receipt of report or complaint.	16-1-31.
Date of appearance or apprehension of accused	31-1-31.
Name of complainant or station from which charge sheet was received with its number and date.	Range Officer, Ramapuram. O.R. No. 47/30-31 dated 4-11-30.
Number, name, age, sex, parentage, caste or race, calling and residence (village and taluk) of accused.	Madaya Gowndan, 45, male, son of Angai Gowndan, Sivachar, Cultivation Geratti of Ponnachi village.
Offence. (Complained of	Illegal felling and trnsporting of 19 trees stolen from the reserved forest (Sec.21-1 and F of Madras Forest Act V of 1882 and Rule 2 and 9 of the Rules framed under Section 35 and 36 of Madras Forest Act.
Offence. (Proved.	Not proved
Plea of accused and his explanation if any.	I did not commit any theft of the Forest trees. The timber belongs to patta fields. I have filed patta passes in the case filed by me against Forester. I did not get the timber from Reserved forest.
Finding and in case of conviction a brief statement of the reasons therefor, together with sentence or other final order and date.	On a suspicion that accused has removed illicitly timber from the forest, this case has been made and 19 logs round square ones etc., were seized on 3-11-30 in the house of accused Madayagowda and handed over to the village munsif for custody. Three prosecution witnesses were examined of whom P.W.1 and 3 support the version of seizure. P.W.2, the Range Officer arranged to produce through P.W. P.W.1 two logs M.O.1 and M.O.2 as corresponding to two cut stumps that he discovered out of the 11 in forest to correspond in size, species and other minor particulars to these two M.Os. The two cut stumps are also produced as M.O.3 and M.O.4. This witness, however, admits that he went to the village munsif's house on 14-11-30 in the morning, took measurements of these two logs M.Os.1 and 2

cont

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went to the forest to verify the cut stumps of them [illegible] tally. He swears that these two alone could tally [illegible] of the other 17 logs would tally with any of the cut stumps [illegible] the forest.

The defence theory as made out in evidence is that these two have been introduced later [illegible] the witness could [illegible] it. There is probably some truth in it as the Forester admitted to have met the Range Officer [illegible] days after the receipt of his offence report dated 4-11-30 at [illegible] between 7th and 14th. It is in evidence that on 14th [illegible], 30, when the Ranger investigated personally he found [illegible] timber about 60 pieces in the house of the accused and [illegible] not choose to make out any case. The timber [illegible] all old timber not detected in transport and even the W.O.1 and 2, in particular W.O.2 looks all dry wood and is [illegible]. The Range Officer himself admits that without [illegible] before hand he could not possibly say from [illegible] whether a stump could correspond to a log which he had seen before. From the evidence adduced, I am not convinced that the accused has committed the alleged offence and therefore acquit him under section 245(1) Cr...C. The [illegible] for the accused and now in possession of the village [illegible] will be handed over back to the accused, and W.O.1 and 2 and their sections 3-a and 4-a have to be returned to the Forest Ranger. W.O.1 and W.O.2 will be returned to the village [illegible] who produced them.

Dictated by me and pronounced in open court this 31st day of January 1931.

(Sd) D.P. [illegible],
31-3-1931.
3rd Divisional Asst. Magistrate.

(True copy)

[illegible]
for [illegible]

6/8.

Sectt. II-5 (a),

Law (Spl) DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

Legal Assistance

Certain forest subordinates of Bannari range - C.C. No 43 of 1930 - Court of the Subdivisional Magistrate, Kollegal - Pleaders fee - Sanctioned

READ AGAIN G.O. No. ..... dated 19

" " " " ..... " 19

READ ALSO :—

C. No. 3673/B From the D.F. Coimbatore, No. 15171/30 D-3, dated 4.8 1931

" " ..... " ..... " ..... " 19

" " ..... " ..... " ..... " 19

ORDER.

Mis

No. 3091, dated 18.8.31 19

Govt sanction the payment of Rs 25. (Rupees Twenty five only) being the fees to the pleader engaged for the defence of Kanappa Pillai, Anganna Naicken and Imam Sahib forest subordinates of Bannari range in C.C. No 43/30 on the file of the Sub Divisional Magistrate, Kollegal

2. The expenditure will be met from the appropriation in the B.E. for 1931-32 under "24 b Administration of Justice

Law Officers - Rescind - D. Contingencies and Supplies and Services - vote - ~~Contingencies~~ - Fees to Pleaders etc in Civil Services and other supplies and services"

KCW
8.8.31

To
The Dy. Comptroller
" Dev Dept
" A.G. thro' Finance Dept

Dev. 1933-I
13-8-31

Dev-Dept

The draft may be accepted & the file passed on to Fin.

RR
14.8.31

Finance.

Dev. No 1933-I/31-1
14-8-31

Finance

The draft order may be accepted and the Case returned to Law (81)

15/8/31
Law (Genl.)

Finance
17-8-31